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No. 90-829

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1990

CITY OF FAITH MEDICAL
AND RESEARCH CENTER,

Petitioner,

vs.

RUTH H. CREECH,

Respondent.

BRIEF IN OPPOSITION TO A PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

I. Is the minimum contact doctrine of in personam jurisdiction under the 14th Amendment to the United States Constitution satisfied where individuals from the State of Ohio are solicited as patients of an Oklahoma Medical Clinic by use of the television airwaves broadcast into the State of Ohio, where residents of the State of Ohio have been intentionally targeted for such solicitations as patients of the medical clinic, where such solicitations by use of the television airwaves are done on a regular basis, and where other individuals from the State of Ohio have responded to the broadcasts of the Oklahoma medical clinic and traveled to the State of Oklahoma for medical treatment?

II. Is the theory of agency by estoppel satisfied so as to make the exercise of personal jurisdiction proper where there exists a corporate affiliated relationship between an Oklahoma Medical Center and an Oklahoma Evangelistic Association, where the Evangelistic Association includes the "entire ministry" and the "entire ministry" includes the Medical Center, where the Evangelistic Association solicits patients on behalf of the Oklahoma Medical Center by the use of the Chief Spokesperson for the "entire ministry," where the Oklahoma Medical Center has full knowledge of the solicitations, where the Oklahoma Medical Center knowingly and intentionally acquiesces in the television broadcasts and solicitations of patients, accepts such patients for treatment, charges the patients for the medical treatment and accepts monies paid for the costs of such treatment?

LIST OF PARTIES

The complete list of parties in the matter before the United States Court of Appeals for the Sixth Circuit was Ruth H. Creech, Plaintiff-Appellee and Cross Appellant; Defendant-Appellant and Cross Appellee City of Faith Medical and Research Center; and Defendant-Appellant and Cross Appellee Michael McGee, M.D.

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CITY OF FAITH MEDICAL
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RUTH H. CREECH,

Respondent.

BRIEF IN OPPOSITION TO A PETITION FOR WRIT OF CERTIORARI

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED IN THE CASE

I. Section 1 of the 14th Amendment to the United States Constitution:

> All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and the State wherein they reside.

No State shall make or enforce any law which abridges the privileges and immunities of citizens of the United States; nor shall any state deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

II. Section 2307.382(A)(1) of the Ohio Revised Code Ann.

(A) A Court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a cause of action arising from the persons:

(1) transacting any business in this state; . . .

STATEMENT OF THE CASE

Respondent concurs in substance with the statement of case set out by the Petitioner in Petitioner's petition. However, Respondent submits that further information is material to the consideration of the questions presented and, to that extent, offers the following.

Oral Roberts Evangelistic Association is a corporation organized under the laws of the State of Oklahoma. The City of Faith Medical and Research Center, by its own admission, is an affiliated corporation under the corporate "umbrella" of O.R.E.A. (Petitioners Brief; Testimony of Mark Swadener, App. p. 6a; Testimony of Oral Roberts, App. pp. 16a-17a).

O.R.E.A. intentionally broadcast a program entitled "Expect a Miracle" into the State of Ohio. (Testimony of Mark Swadener, App. pp. 2a-5a.) Oral and Richard Roberts were the featured speakers on the "Expect a Miracle" television program. (Testimony of Oral Roberts, App. pp. 10a-17a; Mark Swadener, App. p. 8a.) The program actively promoted a concept designated by Oral Roberts as the "City of Faith", admitted that the concept of "City of Faith" included all of his "ministry" and further admitted that he was the chief spokesperson for the "City of Faith". (*Id.*; App. pp. 12a-14a.)

Each broadcast of the "Expect a Miracle" program would begin by showing the City of Faith logo above the words "City of Faith". During various of the broadcasts, the words "City of Faith Clinic Appointments" and a telephone number appeared on the television screen, accompanied by various pictures of the facilities at the hospital and center. (Trial Exhibits 1, consisting of tapes of the Expect a Miracle program.) ("Still Photo's" attached for reference, App. pp. 25a-26a.) Through this program Oral Roberts, as the chief spokesperson for the "City of Faith," intentionally invited people to come from around the country, as well as from other countries, to the hospital and the center for treatment. (App. pp. 11a-14a).

The "Expect a Miracle" broadcast solicited patients and funds for the hospital and the center. Ohio was one of the states intentionally targeted to receive these broadcasts. Respondent initially became aware of the hospital and the center through the "Expect a Miracle" television program and contacted the "City of Faith" in response to these solicitations, and, in fact, other Ohio residents besides Creech were convinced to go to the hospital and the center for treatment. (Testimony of Mark Swadener, App. pp. 2a-5a.) Respondent testified at trial that the broadcasts made her aware of the hospital and the center and provided her with information that enabled her to contact the center and make an appointment for a medical examination. (Ruth Creech, App. pp. 19a-24a.) Further, Respondent testified that had it not been for these broadcasts she would not have contacted the "City of Faith" for medical treatment.

The Medical and Research Center permitted O.R.E.A. to solicit patients on its behalf through broadcasts of the "Expect A Miracle" program in Ohio and knowingly accepted the benefits of the solicitations, never complaining about O.R.E.A.'s activities on its behalf.

ARGUMENT

I. The exercise of in personam jurisdiction over the Petitioner City of Faith Medical and Research Center was proper and the United States District Court for the Southern District of Ohio possessed jurisdiction to consider Respondent's claim against Petitioner.

To determine whether the exercise of personal jurisdiction over a non resident Defendant is proper, a District Court must apply the law of the state in which it sits, subject to due process limitations. *Welsch* v. *Gibbs*, 631 F. 2d 436, 439 (6th Cir. 1980), cert. denied, 450 U.S. 981 (1981). Jurisdiction over this petitioner is proper pursuant to the provisions of Ohio's long arm statute, Ohio Rev. Code Section 2307.382(A)(1) (Anderson 1988 and supp. 1989).

To comport with the due process requirements of the 14th Amendment to the U.S. Constitution, three criteria must be met

> First, the Defendant must purposely avail himself of the privilege of acting in the forum state or causing a consequence in the forum state. Second, the cause of action must arise from the Defendant's activities there. Finally, the acts of the Defendant or consequences must have a substantial enough connection with the forum state to make the exercise of jurisdiction over the Defendant reasonable.

LAK, Inc. v. *Deer Creek Enterprises*, 885 F. 2d 1293, 1299 (6th Cir. 1989), cert. denied, 108 L. Ed. 2d 764 (1990) (citing *Southern Machine Co.* v. *Mohasco Industries*, 401 F. 2d 374, 381 (6th Cir. 1968); *Burger King* v. *Rudzewicz*, 471 U.S. 462, 473 (1985).

The broadcasts of the Expect a Miracle program were intentionally directed into the state of Ohio for the purpose of

soliciting patients for the City of Faith (*supra*). Ohio had intentionally been targeted as a state from which patients would be solicited (*supra*). The Respondent and, in fact, other individuals from the State of Ohio, responded to these solicitations and contacted and went to the City of Faith. If the Expect a Miracle program had not been televised in Ohio, Creech would never have become interested in seeking healing at the center, would never have seen the phone number to call to make an appointment at the center, and would never have undergone surgery at the center. The medical and research center is an affiliated corporation with O.R.E.A., encompassed within the "entire ministry", received funds from the "ministry", was aware of the broadcasts and the solicitations and knowingly accepted the benefits of the solicitations, never complaining about O.R.E.A.'s activities.

Clearly, petitioner through its chief spokesperson, Oral Roberts, and its corporate affiliation with O.R.E.A., purposely availed itself of the privilege of acting in the forum state or causing a consequence in the forum state, "transacted business" in the State of Ohio within the meaning of O.R.C. § 2307.382(A)(1), it was this contact which gave rise to the cause of action, and the connection with the forum state of Ohio is so substantial that the exercise of jurisdiction is reasonable. *See, e.g., World Wide Volkswagen Corporation* v. *Woodson*, 444 U.S. 286, 299 (1980); *Third National Bank* v. *Wedge Group, Inc.*, 882 F. 2d 1087, 1091 (6th Cir. 1989), cert. denied, 110 Sup. Ct. 870 (1990) (citing *Southern Machine*, 401 F. 2d at 384 N. 29).

II. The exercise of jurisdiction over the Petitioner City of Faith Medical and Research Center is proper under the theory of agency by estoppel.

Where one knowingly accepts benefits of solicitations by another the recipient of those benefits may be estopped from denying the existence of the exercise of jurisdiction over its "person" through the theory of agency by estoppel. See *Blackwell* v. *U.A.W.*, 458 N.E. 2d 1272, 1275 (Oh. Ct. App. 1983); *Priess* v. *Fisherfolk*, 535 F. Supp. 1271, 1278-79 (S. D. Ohio 1982).

Here, O.R.E.A., through Oral and Richard Roberts, advertised on behalf of the Petitioner by broadcasting the "Expect a Miracle" program and soliciting patients on behalf of the center. The Center permitted O.R.E.A. to solicit patients on its behalf through broadcasts of the program in Ohio. The center knowingly accepted the benefits of these solicitations, never complaining about O.R.E.A.'s activities. The center, by its own admission is an affiliated corporation with O.R.E.A., and in fact an entity created by O.R.E.A., part of the overall "ministry", and the intentional and direct recipient of benefits derived from activities undertaken on the Centers behalf. Clearly, O.R.E.A. over whom jurisdiction is not questioned, acted on behalf of the medical and research center and the medical and research center, with full knowledge of these activities, knowingly accepted the benefits derived therefrom. This created an agency by estoppel and exercise of jurisdiction over the medical and research center is proper.

CONCLUSION

This Courts Rules governing jurisdiction on Writ of Certiorari mandate that the Court only accept jurisdiction ". . . when there are special and important reasons therefor." The Petitioner's Brief fails to demonstrate any such reasons within the meaning of the Rule.

Contrary to the Petitioner's assertions, the "minimum con-

tacts" doctrine has not been broadened but has been applied in a manner which is consistent with this Courts pronouncements on that doctrine.

Nor has the principle of "Agency by Estoppel" been misapplied or departed from under the facts of this case.

Finally, this Petitioners attempt to equate the ruling in this case with an adverse impact on third person solicitations on behalf of benevolent organizations is clearly misplaced. Here, there is a direct tie between the parties, the parties conduct was intentional and acquiesced in by all parties, and it cannot be argued in good faith and within the meaning of the "minimum contacts" doctrine that it could not be reasonably contemplated that they would be subject to the jurisdiction of the courts in the geographical area within which such solicitations were made.

Therefore, this Court should refuse to exercise jurisdiction over this case and allow the decision of the Court of Appeals to stand.

Respectfully Submitted:

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APPENDIX

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CIVIL NO. C-1-86-1271

Cincinnati, Ohio
Monday, August 8, 1988

RUTH H. CREECH,

Plaintiff,

vs.

CITY OF FAITH HOSPITAL, et al.,

Defendants.

TESTIMONY OF MARK SWADENER
BEFORE THE HONORABLE CARL B. RUBIN,
CHIEF JUDGE, AND JURY

For the plaintiff:	T. DAVID BURGESS, ESQ. LAWRENCE FISSE, ESQ. LOYAL ROACH, ESQ.
For the defendant City of Faith:	RICHARD D. WAGNER, ESQ.
For the defendant Dr. McGee:	JOSEPH M. BEST, ESQ. CHARLES E. BROWN, ESQ.

For the defendants
Roberts: LAWRENCE BARBIERE, ESQ.

For the defendant
OREA: FREDERICK BROCKMEIER, ESQ.

---

[2] (Witness sworn by the clerk.)

MARK SWADENER

a witness called on behalf of the plaintiff, having been duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. BURGESS:

Q. Mr. Swadener, for the record and the ladies and gentlemen of the jury, please give us your full name and your current address.

A. My name is Mark Swadener, S-w-a-d-e-n-e-r, and I live in Tulsa, Oklahoma.

Q. Mr. Swadener, are you currently employed?

A. Yes, I am.

Q. And in what capacity and where?

A. I'm chief financial officer for Oral Roberts Ministries, all entities.

Q. And how long have you been so employed?

A. Since 1984.

Q. So you were so employed in the Oral Roberts Ministries as the chief financial officer for all of 1985; is that correct?

A. We get into and argument. Fiscal 1985?

Q. No, just calendar 1985.

A. Calendar 1985.

Q. Mr. Swadener, are you familiar with the Certificate

* * *

[4]

A. The concept was to have patients come from a national and international base of partners.

Q. And would that national base include the State of Ohio?

A. Yes, in general.

Q. And the State of Ohio then was one of the initially targeted states in the original Certificate of Need?

A. I would say that the entire United States including the State of Ohio would be, yes.

Q. Okay. Now, you stated that you were the chief and still are the chief financial officer for the entire Oral Roberts Ministry?

A. That is correct.

Q. Would that ministry include the City of Faith Hospital?

MR. WAGNER: Objection.

THE COURT: Overruled.

A. Yes.

Q. Would that ministry include the City of Faith Medical and Research Center?

A. Yes.

Q. Now, are you familiar with the financial records of the City of Faith Hospital and the City of Faith Medical and Research Center?

A. Yes.

[5]

Q. Would those records include expenses dealing with advertising?

A. Yes, they would.

Q. Now, directing your attention to the "Expect a Miracle" program, do you know — first of all, are you familiar with that program?

A. Yes, I am.

Q. And is that program a program sponsored by the Oral Roberts Ministries?

A. By the Oral Roberts Evangelistic Association.

Q. And that would include segments dealing with the City of Faith Hospital; is that correct?

A. Not on every show, but, yes, it has from time to time.

Q. And, likewise, the City of Faith Medical and Research Center?

A. It's probably more broadly termed the City of Faith, yes.

Q. And that broadcast would include an appeal directed to a national audience for patients to come to the City of Faith Hospital; is that not true?

A. Generally, yes.

Q. And, likewise, a national appeal to come to the City of Faith Medical and Research Center?

A. Yes. I don't know if I would use the world "appeal." [6]

Q. To attract patients to seek the services at the hospital and the center?

A. To have them come to our facility for their medical care.

Q. Okay. Now, does the City of Faith Hospital and the City of Faith Medical and Research Center contribute toward the production costs of the "Expect a Miracle" program?

A. No they don't.

Q. And is there any part of the advertising budget that is allocated to that?

A. No, there is not.

Q. How is that handled?

A. Oral Roberts Evangelistic Association bears the total cost of the "Expect a Miracle" program.

Q. So there is no contribution, then, from the other entities within the ministry?

A. No, there is not.

Q. Okay. To your knowledge, was the "Expect a Miracle" broadcast shown in the Ohio marketing area in 1985?

A. I would have to go back. But I would say yes, but I don't know that for a fact.

MR. BURGESS: May I have one moment, Your Honor?

THE COURT: Take your time.

Q. Mr. Swadener, just a few more questions. The [7]

original Certificate of Need, did it also include partners throughout the country or a national consituency?

A. I don't understand the question.

Q. The Certificate of Need, in the initial projections as to the individuals who would be utilizing the services of the hospital and the City of Faith Medical and Research Center, did that include the partners of the Oral Roberts Ministries?

A. I think the document generally considered that the partners would be that national base.

Q. And that national base would include partners throughout the entire country?

A. Yes.

Q. Including the the State of Ohio?

A. Generally, yes.

MR. BURGESS: No further questions, Your Honor.

THE COURT: Mr. Wagner, do you wish to inquire? Mr. Brown? Any order of inquiry.

MR. BROWN: I have one.

THE COURT: Mr. Brown.

CROSS-EXAMINATION

BY MR. BROWN:

Q. This will not be a scathing cross-examination, just one question.

[8]

A. Yes.

Q. You indicated, sir, that the Oral Roberts Evangelistic Association bore the costs of "Expect a Miracle," correct?

A. That is correct.

Q. So it goes without saying that Dr. McGee paid no part of that; is that correct?

A. That is correct also.

MR. BROWN: Thank you. That's all I have.

THE COURT: Mr. Wagner, do you wish to inquire?

MR. WAGNER: Thank you, Your Honor.

CROSS-EXAMINATION

BY MR. WAGNER:

Q. Mr. Swadener, in your use the term Oral Roberts Ministries, what do you mean?

A. All entities that are under the general umbrella of Oral Roberts Evangelistic Association.

Q. That would be OREA, Oral Roberts Evangelistic Association, as well as those entities that the ministry gave birth to at one time or another by contribution; is that right?

A. That is correct. Or not necessarily contributions. Could be just a start of organization for profit entity.

Q. With regard to the hospital and the medical and research center, and for the purpose of my questions let

* * *

[11]
entities have any relationship with each other or with any other entities?

A. Well, they're all separate legal and distinct entities. The City of Faith Medical and Research Center, which we know as the clinic, is what we call a 501 K; they're a separate not-for-profit organization, as is the City of Faith Hospital. The fact that certain management personnel such as myself cross over certain lines would say there is a relationship, but there may not be any financial relationships that occur, although there are between clinic and hospital.

Q. Now, may I assume, sir, that the ministry, generally speaking, wants the hospital to do well?

A. Yes. Better than it is, yes.

Q. And in this regard, who determines how much contribution or how much is given by the ministries to the hospital and the medical and research center to help them financially?

A. There are really two classes of contributions. First are donor-restricted. If you have a donor send in money and you want to restrict it for either the City of Faith Medical and Research Center or the City of Faith Hospital, then it would go for that purpose. Unrestricted contributions are a little bit

more difficult, and they also go through a budgeting process [12] that determines in advance how much we are willing as an organization to subsidize with contributions. So that's more or less a management decision.

Q. And is that decision made by OREA?

A. Well, when you talk about the various entities, because of some of the cross-overs in relationships, such as mine, you would have to say that the decision of contributions is ultimately going to rest in a management groove that is made up of individuals from the various organizations.

Q. My question is this: Does the hospital or does the Medical and Research Center, do they determine what contributions or what financial help will come from the ministry?

A. I would not — I would say no to that, but then I would have to explain. As being I'm also treasurer of the hospital, so I have a very large say in at least the planning process and what we're anticipating for contributions and how they will be allocated, but the operational side of the hospital, which would be the practice of medical care, would generally not have too much of a say-so if there was a decision not to allow contributions to go to the hospital. Everybody would like to spend more than what they have or what the organization has. There is no bottomless pit.

* * *

[15]

A. No.

MR. WAGNER: I believe that's all, Your Honor.

THE COURT: Mr. Burgess, do you have redirect?

MR. BURGESS: Yes, Your Honor.

REDIRECT EXAMINATION

BY MR. BURGESS:

Q. Mr. Swadener, you indicated that personnel will come from the hospital and the City of Faith Medical and Research Center and appear on the "Expect a Miracle" program; is that correct?

A. Yes.

Q. And would the purpose of appearing on that program be to promote the City of Faith Hospital and the City of Faith Medical and Research Center?

A. Yes. It would be for that, I would say.

Q. And to try and tell the national audience that we have this facility here and we're asking you to come to this facility for your medical needs; would that be part of that program?

A. Yes, I would say that.

Q. And who would those people be?

A. Well, it depends on the day of the week. I mean, there may be the surgeons. There may be internists discussing their specialty on the programs. Generally, that's going to be more of a "Richard Roberts Live" than [16] it is "Expect a Miracle," because the "Expect a Miracle" is only a half hour on Sunday morning, and it's very difficult to put somebody on that program for any length of time and explain adequately what the message is.

Q. But that has occurred on the "Expect a Miracle" program?

A. Yes. And Oral has been in the hospital or in the City of Faith Medical and Research Center when he has taped. I mean, if you see the program on Sunday morning, sometimes his program will be taped at the hospital.

MR. BROWN: Objection.

THE COURT: Sustained. The jury is instructed to disregard the last comment of the witness.

I think this is becoming repetitious, Mr. Burgess. You may continue.

MR. BURGESS: Thank you, Your Honor.

Q. Now, based on your knowledge as to the financial affairs of the Oral Roberts Ministry, was there a need for patients at the City of Faith Hospital and the City of Faith Medical and Research Center in 1985?

MR. WAGNER: Objection.

THE COURT: Objection sustained.

Q. In the "Expect a Miracle" programs, to your knowledge, would there have been representations as to the hospital

and the clinic as far as numbers, not [17] numbers, but phone numbers to call to seek the services of the hospital and the research center?

A. Generally, there would be a character-generated line at the bottom with a phone number to call for appointments.

Q. And to your knowledge, would people respond to that phone number?

A. Generally, yes.

Q. And patients would come from throughout the country?

THE COURT: Mr. Burgess, now, come on, you have gone through this. I don't think it's appropriate to do it twice.

MR. BURGESS: Okay. No further questions, Your Honor.

THE COURT: Anything further of this witness?

MR. BROWN: No, Your Honor.

THE COURT: Any questions from the jury?

Mr. Swadener, you may be excused.

TESTIMONY CONCLUDED

CERTIFICATE

I, Betty J. Schwab, the undersigned, do hereby certify that the foregoing is a correct transcript from the record of the proceedings in the above-entitled matter.

/s/ BETTY J. SCHWAB
Official Court Reporter

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CIVIL NO. C-1-86-1271

Cincinnati, Ohio
August 2, 1988

RUTH H. CREECH,

Plaintiff,

vs.

CITY OF FAITH HOSPITAL, et al.,

Defendants.

DEPOSITION TESTIMONY OF ORAL ROBERTS
BEFORE THE HONORABLE CARL B. RUBIN,
CHIEF JUDGE, AND JURY

For the plaintiff:	T. DAVID BURGESS, ESQ. LAWRENCE FISSE, ESQ. LOYAL ROACH, ESQ.
For the defendant City of Faith:	RICHARD D. WAGNER, ESQ.
For the defendant Dr. McGee:	JOSEPH M. BEST, ESQ. CHARLES E. BROWN, ESQ.
For the defendants Roberts:	LAWRENCE BARBIERE, ESQ.
For the defendant OREA:	FREDERICK BROCKMEIER, ESQ.

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* * *

[6]
attorney to be furnished to us?

A. Whatever my attorneys would say on that. You're welcome to have anything I have.

MR. FISSE: At this point, skip to line 17 on that page.

Q. Okay. Well, the City of Faith and the concept of the City of Faith certainly was it to direct — was it to attract only patients from Tulsa?

A. It was to be available to anybody in the world who believed that the merging of prayer and medicine through God's healing stream might benefit them.

Q. And you wanted that concept known throughout the world, did you not?

A. Yes, sir.

Q. And you promoted the concept worldwide?

A. To the extent of my ability.

Q. And how did you do that?

A. Every way I knew how. I can't tell you all the ways. I don't know how from that standpoint. I preached it wherever I went. I presented it on our television programs. I did it — I did my best, the best job I knew how.

Q. And does the City of Faith attract patients for the hospital as well as patients for the clinic from areas other than Tulsa? Do you recall the question as far as [7] patients coming to the City of Faith? Let's leave out the word "attract."

A. Would you rephrase that question?

Q. Okay. People from all over of the country and all over the world come to the City of Faith?

A. I believe that's a fair statement.

Q. And that was part of the original concept that you promoted to attract people from all over this country and all over the world to come to the City of Faith?

A. If you'll rephrase it.

Q. Do patients come to the City of Faith from all over this country, probably every state in this country, as well as foreign countries throughout the world?

A. As far as I know.

Q. Okay. And are treated at the City of Faith?

A. Yes, sir.

Q. And would you classify it then as an international hospital?

A. From the standpoint that the following of the ministry is international.

Q. By that answer, you're not — as to the City of Faith, is that within that ministry?

A. Yes, Sir. The university, the evanglistic association, my ministry is multi-faceted.

Q. So then the appeal for the hospital would be [8] international as well as your ministry?

A. I think that's a fair statement.

Q. Do you have authority to speak on behalf of the City of Faith?

MR. FISSE: I'm sorry. Page 43, line 13.

MR. ROACH: Sorry. Could you ask that again, please?

Q. Do you have authority to speak on behalf of the City of Faith?

A. Of the City of Faith?

Q. Yes.

MR. FISSE: Skip to line 25 — 24, I'm sorry.

A. There is a City of Faith out there.

Q. Okay. And the City of Faith, is it broken down into separate entities?

A. I don't understand what you're saying.

Q. What I mean by that, there is a hospital?

A. There is a hospital.

Q. City of Faith Hospital?

A. True.

Q. And there is a City of Faith Medical and Research Center?

A. There is a research center.

MR. FISSE: Page 46, lines 2 through 20.

Q. All I'm saying is that on your broadcast and within [9] your — within the productions at least I have been privy to see, you do mention the City of Faith Hospital.

A. I'm for it with all my heart and believe it's a wonderful place, if that's what you mean.

Q. Okay.

A. I would like for you to come if you have the opportunity.

Q. And you also mention the City of Faith Medical and Research Center?

A. That depends, and I don't know how to answer when you say — are you saying I stand up and I use all those terms every time?

Q. I'm saying that you use that terminology, and when you use that terminology, you request people to come to the facility?

A. I invite.

Q. I'm not saying you admit them.

A. I invite them to come.

MR. FISSE: Page 48, lines 1 through 4.

Q. On your programs, do you invite people to come to the City of Faith Hospital?

A. I invite them to consider it.

MR. FISSE: Line 22.

Q. Okay. On your broadcast that you have programmed, I believe on cable TV, throughout the country?

[10]

A. Well, I'm on television, if that's what you mean.

Q. And you have one such show, "Expect a Miracle"?

A. Yes, sir.

Q. Is that correct? And can you tell me how much channels that would be broadcast on throughout the country?

A. I could not.

Q. It certainly is outside the city of Tulsa?

A. Surely.

Q. Okay. And would it be a fair statement to say that it goes into at least more than 10, 15, 20 states within this country?

A. Yes.

Q. Okay. And you are the — for lack of a better term — the person that the program focuses upon?

A. I'm the spokeman.

Q. As the spokesman of that program, being the series on "Expect a Miracle"?

A. Yes. I'm the preacher.

Q. And you also preach during that program?

A. Yes, sir.

Q. You make or you invite, do you not, people to come to the City of Faith Hospital?

A. Yes. That's why we built it.

MR. FISSE: Page 51, line 5.

[11]

Q. And do you expect people to come to the City of Faith Hospital based upon the statements you make on your program, "Expect a Miracle"?

A. Well, I hope as many people who believe in the concept that the City of Faith is based on, as many as possible that we can serve will come.

Q. You would like to have as many as you could possibly get that feel a need to be there; isn't that that?

A. Depending upon our ability to serve them, yes.

Q. Now, in that regard, in inviting people to the City of Faith Hospital and the City of Faith Medical and Reserach Center on your program "Expect a Miracle," is it not true that you are acting as a spokesman at least that capacity for the City of Faith Hospital and the City of Faith Medical and Research Center?

A. For the entire ministry.

Q. And the total ministry you're referring to is —

A. Well, it's the gospel.

Q. Does it have a name, Oral Roberts Evangelistic Association? Is that the ministry you're talking about?

A. It depends upon the face of it. If it's the university that we have open to students who are interested in that type of Christian university and if we can help you in your spiritual life to lead you to Christ — as I said, it's multi-faceted.

[12]

Q. Now, also as to your program "Expect a Miracle," specifically as to requesting the viewing public to make contributions, first of all, have you made — or have you made

statements on your program "Expect a Miracle" to make contributions to your ministry?

A. Yes. We have asked friends to be partners with the total ministry and constantly.

Q. And does that total —

A. Excuse me. In the same way that as a pastor I ask people to give offerings every Sunday.

Q. I understand.

A. We take up the offering as best we know how.

Q. And do you do that over the air waves?

A. As best we know how.

Q. Now, the total ministry you talk about, does that include the City of Faith?

A. Yes.

Q. And the City of Faith Medical and Research Center?

A. I'm sorry. I didn't mean to answer.

Q. And so when you make a statement on your program —

MR. ROACH: Excuse me. Your Honor, may I have a bench conference to ask the Court how something can be handled?

THE COURT: Gentlemen, approach the bench, please.

* * *

[15]

"Expect a Miracle" requesting an offering for your ministry, you are expecting — are you expecting that offering to include offerings for the City of Faith Hospital and City of Faith Medical and Research Center?

A. Well, that depends.

Q. Depends on what?

A. A general offering, if it's unspecified, is to be used for the entire thing just like you would in a church. In a church, if you were in a building program and you asked people to pledge to that, you're bound by law to use it for that purpose. But if you say we'll take up the offering and would you give, then you would use it — pardon me — then you would use that wherever it's needed. So that it would apply in the same way, unless we specify it, then it can be used anywhere.

MR. FISSE: Okay, page 60.

Q. Okay. The ministry we're referring to is the Oral Roberts Evangelistic Association. Now, the ministry has provided funds for the City of Faith Hospital; is that not true?

A. It was the instrument by which the drive was made for the City of Faith, and so the funds are transferred from it to the City of Faith.

Q. The funds are transferred from the Oral Roberts Evangelistic Association to the City of Faith Hospital?

[16]

A. Well, broadly, yes, because, if you remember, you asked me if the — if an offering was made specifically to the City of Faith.

MR. FISSE: Turn to page 63, line 21.

Q. Okay. Getting back to the contributions or the offerings that are made to your ministry, unless they are a restricted offering, they would come directly into the association?

A. That's true.

Q. Okay. The association would then, through its board of directors or board of trustees, would decide where the funds would be needed the most?

A. That's right.

Q. And pass those funds on to the various entities?

A. Yes, sir.

Q. Is that correct? Now, that has been done since the beginning of the City of Faith; is that not true?

A. Since the beginning of the ministry. Whatever the specified gift was or unspecified gift was, it was conducted in that manner.

Q. Okay.

A. Which would include the City of Faith.

MR. FISSE: Page 68.

Q. Well, I'm merely asking you are there other entities owned by the Oral Roberts Evangelistic Association?

[17]

A. Owned is a word that I don't know how to apply. The only way I know how to answer you is that the Oral Roberts

Evangelistic Association initiated programs such as that became the Oral Roberts University, that became the City of Faith, and then boards were elected to take them over.

MR. FISSE: At page 74, line 18.

Q. All right. Are you familiar with — strike that. When a patient goes to the City of Faith Hospital, are you familiar with the procedure that that patient would follow?

A. That is a medical concern purely, and I would not know.

Q. You mentioned previously prayer partners?

A. Yes, sir.

Q. What function, if any, would the prayer partners have as far as the City of Faith Hospital?

A. I answered that a while ago.

Q. Are they any part of the medical team?

A. No.

Q. Are they a separate team entirely apart from the medical team?

A. In the world of medicine — I'm sorry.

Q. Are they a separate team apart from the medical team?

A. As I understand in my limited way, the way medicine

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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

CIVIL NO. C-1-86-1271

Cincinnati, Ohio
Monday, August 1, 1988
Tuesday August 2, 1988
Thurs., September 1, 1988

RUTH H. CREECH,

Plaintiff,

vs.

CITY OF FAITH HOSPITAL, et al.,

Defendants.

COMPLETE TESTIMONY OF RUTH CREECH
BEFORE THE HONORABLE CARL B. RUBIN,
CHIEF JUDGE, AND JURY

For the plaintiff:	T. DAVID BURGESS, ESQ. LAWRENCE FISSE, ESQ. LOYAL ROACH, ESQ.
For the defendant City of Faith:	RICHARD D. WAGNER, ESQ.
For the defendant Dr. McGee:	JOSEPH M. BEST, ESQ. CHARLES E. BROWN, ESQ.
For the defendants Roberts:	LAWRENCE BARBIERE, ESQ.
For the defendant OREA:	FREDERICK BROCKMEIER, ESQ.

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* * *

[13]
recollection of what was said. Accordingly, I'm sustaining the objection on the basis of the best evidence rule. You may proceed.

MR. BURGESS: Thank you, Your Honor.

BY MR. BURGESS:

Q. Mrs. Creech, without telling me what you observed dealing with the tapes that we're talking about and the programs that you have previously mentioned, did you, prior to October and November of 1985, see Oral Roberts on TV?

A. Yes, I did.

Q. Prior to this date, before October, November of 1985?

A. Yes, I did.

Q. Did you continue to watch his programs?

A. Yes.

Q. Now, after November, October or during October and November of 1985, did you have an opportunity to watch the Oral Roberts programs on television?

A. Yes, I did.

Q. Did you watch any other programs on television of a religious nature other than Oral and Richard Roberts?

A. Yes. I have watched Trinity Broadcasting Network, which is on channel 43 here in Cincinnati.

Q. Do you recall what station you saw the Oral Roberts programs on?

[14]

A. I believe it was channel 12.

Q. And that was in your home in Milford, Ohio?

A. Yes.

Q. Mrs. Creech, what program was that? Without telling us what the contents of that program would have been, do you know a name of the program?

A. "Expect a Miracle."

Q. Okay. And did you review those, or did you see "Expect a Miracle" programs produced by the Oral Roberts ministry in October and November of 1985?

A. Yes, I did.

Q. And based on the representations contained within those programs, did you make a decision to go to the City of Faith?

A. Yes, I did.

Q. Now, Mrs. Creech, have you had an opportunity to review the programs that have been obtained through this lawsuit dealing with the programs in October and November of 1985?

A. Yes, I have.

Q. And do those programs fairly and accurately represent the programs you saw in October and November of 1985?

A. Yes, they do.

MR. BURGESS: Your Honor, I would ask the Court for permission to show those programs, and they will be

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[40]

Q. That's better. Mrs. Creech, forgetting the pictures for a moment that we have identified as Plaintiff's Number 37, the representations — primarily, the representations that were made in the tapes that we saw as far as "Expect a Miracle", what specific portions of those tapes did you rely on in basing your decision to go to the City of Faith?

MR. BROWN: Object.

THE COURT: Overruled.

A. May I answer that now?

Q. Yes, go ahead.

A. I was very ill at the time. I was having a lot of pain in my stomach, a lot of vomiting, and I was — if I felt good enough, I would go to church, but there was a lot of days I couldn't.

MR. BARBIERE: Excuse me. I just can't hear what you're saying. I can't understand you.

Q. Turn the microphone that way a little bit and kind of bend down when you talk into it.

A. Okay. I went to the City of Faith primarily because of the inferring that Oral Roberts had a special power in his right hand.

MR. BROWN: Object.

THE COURT: Sustained. The jury is instructed to disregard that statement.

Q. Mrs. Creech, you indicated that there were certain representations that were made to you in the "Expect a Miracle" program; is that correct?

MR. BARBIERE: Objection.

THE COURT: Overruled.

A. Yes.

Q. And were there any actual visual representations, strictly the visual portion of the show, that you relied upon?

A. Him laying his hands on patients in the hospital.

Q. Okay. And that would have been the actual visual representation; is that correct?

A. Yes.

Q. Now, you observed that and heard — or heard that in the "Expect a Miracle" program?

A. Yes, I did.

Q. And did you believe that?

A. Yes, I believed.

Q. What did you believe about that particular portion of the program?

MR. BARBIERE: Objection.

THE COURT: Overruled.

A. I believed he was a man of God, and I took him at his word that he did have a special power in his right hand and the fact that they — him praying over the people in [42] the hospital, and, like, it had been like three years, two years since — three years since I had been evaluated, and I was having, you know, a bad time of it, so just all of that together, the combination of the way I was feeling and watching these shows just led me to believe that that would be the place to go and that was of the thing to do. I really felt in my heart that was the right thing to do.

Q. Specifically dealing with the visual observations as far as Mr. Roberts coming to the hospital —

A. He said he would walk through fire to get to you; he would come to your house if he could, and then he said, "Get

on a plane. Get on a bus. Get in a car. Come." You know, and I just assumed that meant, if you came, that he would —

MR. BROWN: Object.

A. He would pray for you.

THE COURT: Overruled.

Q. Are you saying that you actually believed that he was going to come to the hospital or the clinic and lay his hands on you?

MR. BROWN: Object.

THE COURT: Overruled.

A. Yes, I did.

Q. And why did you rely on this particular statement?

[43]

A. Because it was shown in the shows that a couple of them — maybe three of them. You only saw three or four of them, and there were several — out of the six, there was a couple times that they showed him in the room praying over the patients, touching them.

Q. Was that material to your decision in going?

A. Yes, it was.

Q. And would you explain that to the ladies and gentlemen of the jury?

A. I had already had two previous surgeries with medicine alone, and he had made the statement that you cannot be cured by medicine alone; it takes a combination. And I had been through it twice before, and so this seemed like the special thing that I was looking for, and I expected my miracle.

Q. Okay, Now, Mrs. Creech, dealing specifically with the audio representations as far as the spoken word, are there any specific representations that you can recall that you relied on to go to the City of Faith that were presented on the Oral Roberts "Expect a Miracle" in October and November of 1985?

MR. WAGNER Objection, Your Honor, asked and answered.

THE COURT: Overruled.

A. The reason I went?

[44]

Q. I'm talking about specific spoken words.

A. Spoken words, that he said that he was a man of God, that he had power in his right hand, and God wants you healed and so do I, which I believe to this day that God does want us all healed. Those are basically the things.

Q. Now, that particular representation dealing with his right hand, what did you understand that to be?

A. That he had a special touch. He said he had Jesus in that right hand.

Q. And did you believe that?

A. Yes, I did.

Q. And why did you believe that?

A. Because he was a man of God, and I believed him.

Q. And did you rely on that in your decision in going to the City of Faith?

A. Yes, I did.

Q. And was that material to your decision?

A. Yes.

Q. And why?

A. Like I said before, I'd been through two previous surgeries that hadn't worked, and I was suffering quite a bit.

Q. Okay. Now, Mrs. Creech, dealing with the — were there any other statements that Mr. Roberts played that you relied on to go to the City of Faith?

[45]

A. That his doctors were trained not only in medicine but in prayer, and that he did say at one point in the tape that if you had surgery he would pray for the surgery to work. So that had been in my mind, you know. I would have thought he would have came there and prayed before the surgery or at the clinic, because he did say that him and his family worked throughout the hospital and clinic, and they never really did, and the hospital and clinic, I realize now, is nothing more than a medical facility.

Q. Now, why do you realize that now?

A. Because I have been there and I have seen it, and you get prayer at every hospital. I did. My pastor came, and

chaplains at the hospital, priests and nuns in the Catholic hospitals all prayed, and I always had, you know, the medication and prayer.

Q. Are you saying that, in your two previous surgeries, that you had people that came to the hospital, members of the clergy?

THE COURT: Excuse me. Mr. Burgess, you not only may not lead the witness, you may not testify for the witness.

MR. BURGESS: I understand, Your Honor.

THE COURT: Proceed to your next question.

Q. Mrs. Creech, would you explain your prior

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[47]

about that later." And I was there for two months, and I didn't see him.

Q. Mrs. Creech, did you rely on that statement in going to the City of Faith Hospital?

A. Yes, I did.

Q. And was that material in your decision in going to the City of Faith Hospital?

A. Yes, it was.

Q. Now, Mrs. Creech, would you explain "seed faith," as you know it, as far as your understanding of that word?

A. Um-hum. The concept goes back a long way with Oral Roberts. It is that if you plant a seed, a good deed actually, say, and you will get it back 20, you know, 100 fold. Like the Bible says, to plant your seeds and harvest and reap and soe and all that. And, basically, it's saying, if you have a financial problem, maybe you can send five dollars to him, and you would — you know, something good would happen; you would get a miracle back. That's basically what it means.

Q. Now, dealing with the financial commitment, did you, in fact, make a financial commitment?

A. Yes, I did.

Q. And how did you do that?

A. I bought an airline ticket to go there, and I paid for my tests. As I went along, each test, I paid for it,

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